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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,575	05/26/2005	Sean Phillips	18801-00797	9932

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/536,575

**Applicant(s)**

PHILLIPS ET AL.

**Examiner**

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5-12, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 13-15 and 23-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Gottler (USPN 3,584,899).

Gottler shows an adjustable fifth wheel hitch with a guide rail 3, a head assembly 1, an adjustment assembly 2 and a locking assembly including a single head portion (O) engaging a first aperture with the hitch at a first position and engaging a second aperture with the hitch in a second position.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottler in view of Lindenman (USPN 5,707,070).

Gottler lacks an adjustment assembly including an inboard plate, an outboard plate, and a roller supported thereby to engage the rail. It also fails to show round or oval rails.

Lindenman shows a fifth wheel hitch with a pair of guide rails 16, a head assembly, an adjustment assembly 32 and a locking assembly 70-90 for releasably locking the head assembly in different positions. The adjustment assembly includes

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side plates 32, 34 with a roller 36, 36', 36", mounted between the plates. The rails are round or oval shaped.

It would have been obvious to one of ordinary skill in the art to provide the Gottler adjustment assembly with side plates and a roller to facilitate sliding of the assembly on the rails. It would also have been obvious to provide rounded rails, as taught by Lindenman, in order to reinforce the rail structure.

5. Claims 1-4 are allowed.
6. Claims 13-15 and 23-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Applicant's arguments filed 4/8/2009 have been fully considered but they are not persuasive.

Applicant argues that Gottler fail to teach a locking cam capable of engaging a detent in the locking arm. However, Gottler shows a locking arm O with a detent (unnumbered aperture) in Figure 1a, and a locking cam M, L, that engages the detent. Therefore, the claimed structure is believed to be taught by Gottler, as broadly recited.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anne Marie M Boehler/  
Primary Examiner, Art Unit 3611

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Primary Examiner  
Art Unit 3611

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